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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,275	01/16/2002	Gerold Fleissner	865.41078X00	3523

20457 7590 02/12/2003
ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON, VA 22209

EXAMINER

PHAM, MINH CHAU

ART UNIT

PAPER NUMBER

3654

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/046,275	Applicant(s) FLIESSNER
	Examiner Minh-Chau Pham	Art Unit 3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

 - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 16 January 2002.

 2a) This action is FINAL. 2b) This action is non-final.

 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

 5) Claim(s) _____ is/are allowed.

 6) Claim(s) 1-13 is/are rejected.

 7) Claim(s) _____ is/are objected to.

 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

 10) The drawing(s) filed on 16 January 2002 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

 If approved, corrected drawings are required in reply to this Office action.

 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

 a) All b) Some * c) None of:

 1. Certified copies of the priority documents have been received.

 2. Certified copies of the priority documents have been received in Application No. _____.

 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

 * See the attached detailed Office action for a list of the certified copies not received.

 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

 a) The translation of the foreign language provisional application has been received.

 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____.
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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The specification to which the oath or declaration is directed has not been adequately identified (the title is not the same as in the specification). See MPEP § 601.01(a).

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references, such as DE-A-100 08 746 and EP-A-0 032 772, have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "9" (see page 2, line 22). A proposed drawing correction or corrected drawings are required in reply to the Office

action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claims 8-9, 11, and objected to because of the following informalities: typographical error of “calender”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Regarding claim 2, is “an endless circulating transport element” the same as or different than “a transport element” in line 4 of claim 1? For the purpose of examination, the examiner will assume they are the same. If they are not the same, then applicant needs to show in the drawings that the partial vacuum acts against both “a transport element” of claim 1 and “an endless circulating transport element” of claim 2.

9. Claim 3 recites the limitation "the intrinsic temperature" in lines 2-3 of the claim. There is insufficient antecedent basis for this limitation in the claim. To avoid the insufficient antecedent basis, applicant should amend “the intrinsic temperature” to “an intrinsic temperature”. Dependent claim 4, therefore, inherits the lack of antecedent basis.

10. Claim 5 recites the limitation "the non-transporting side" in last line of the claim. There is insufficient antecedent basis for this limitation in the claim. To avoid the insufficient

antecedent basis, applicant should amend "the non-transporting side" to "a non-transporting side". Dependent claims 6-7, therefore, inherit the indefiniteness.

11. Regarding claim 5, the phrase "may be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. For the purpose of examination, the examiner will assume that the limitation following the phrase "may be" does not have to be part of the claimed invention.

12. In claim 8, the limitation "the nonwoven track" in lines 3-4, and the limitation "the nontransport side" in last line have insufficient antecedent basis. Dependent claim 9, therefore, inherits the insufficient antecedent basis.

13. Claim 9 recites the limitation "the first deflection roller (20)" in line 1 of the claim.

There is insufficient antecedent basis for this limitation in the claim.

14. In claim 10, the limitation "the endless delivery conveyor (18)" in line 2, the limitation "the upper delivery site" in line 3, and the limitation "the following conveyor (17)" in line 4 have insufficient antecedent basis. For "the endless delivery conveyor", is applicant referring to "a transport element" in line 4 of claim 1? For the purpose of examination, the examiner will assume so.

15. Claim 11 recites the limitation "the lower roller" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim. Dependent claims 12-13, therefore, inherit the insufficient antecedent basis.

16. In claim 13, the limitation "the calendar roller" in line 3, and the limitation "the first deflection roller" in line 4 have insufficient antecedent basis. For "the calendar roller", which one of the "calendar roller pair" of claim 11 is applicant claiming? In addition, is "a perforated

“drum” in line 1 the same as that in claim 12? For the purpose of examination, the examiner will assume the drum is the same.

Claim Rejections - 35 USC § 102

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in –

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

18. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Baigas, Jr. (US 5,614,303).

Baigas, Jr. discloses applicant’s claimed invention, specifically teaching a method and apparatus for transporting a thin nonwoven material (11) from one roller [Fig. 5, the right roller of (61)] to a second transport device (60) or a following adjacent roller [Fig. 5, the left roller of (63)] comprising:

an endless conveyor circulating transport element (63);

a partial vacuum/an associated suction device [Fig. 5, the down arrows created by (64b)];

and

cooling air (66)(col. 7, lines 19-21).

Regarding claim 3, the nonwoven material is simultaneous processed and cooled at an intrinsic temperature (col. 7, lines 10-24).

19. Claims 1-7 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Meschenmoser (US 5,915,613).

Meschenmoser discloses applicant's claimed invention, specifically teaching a method and an apparatus for transporting material (3) from one roller (17) to a second transport device (33) or a following adjacent roller (35) comprising:

- an obviously endless circulating transport element (33)(35);
- a partial vacuum/an associated suction device (35); and
- cooling air (43).

Regarding claim 7, the transport element (33)(35) is a perforated drum (35) and since it is a suctioned rolled, the suction draft is inherently cooling air.

20. Claims 1-6 and 10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Meschenmoser (US 5,915,613).

Meschenmoser discloses applicant's claimed invention, specifically teaching a method and an apparatus for transporting material (3) from one roller (5) to a second transport device (33) or a following adjacent roller (17) comprising:

- a partial vacuum (21);
- a obviously endless circulating transport element/delivery conveyor (13);
- cooling air (43);
- a suction device (25); and
- a following conveyor (33).

21. Claims 1-2, 5, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Brabant et al. (US 6,050,469).

Brabant discloses applicant's claimed invention, specifically teaching a method and an apparatus for transporting material (1) from one roller (4) to a second transport device (3a)(3b) or a following adjacent roller (3a) comprising:

a partial vacuum [Figure, inside of (4)](see also col. 3, lines 29-35); and
an endless circulating transport element (5) which is a perforated drum.

Allowable Subject Matter

22. Claims 8-9 and 11-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

23. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, taken as a whole, fails to disclose or render obvious a device for transporting material from one roller to a second transport device comprising all the limitations claimed, including a calender roller pair followed by an endless conveyor for further processing as recited in claims 8 and 11.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dadd (US 6,253,983 B1) and Stahlecker (US 6,308,878 B1) are cited to show a device for delivering material on a vacuum conveyor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau Pham whose telephone number is (703) 305-0766. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki can be reached on (703) 308-2688. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Minh-Chau Pham
Examiner
Art Unit 3654

pmc
February 10, 2003